

ENROLLED ORDINANCE 167-4

AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE OF THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼ AND SE ¼ OF SECTION 14, T8N, R17E, TOWN OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN, FROM THE A-P AGRICULTURAL LAND PRESERVATION DISTRICT TO THE P-I PUBLIC AND INSTITUTIONAL AND A-1 AGRICULTURAL DISTRICTS (SZ-1724)

WHEREAS after proper notice was given, public hearings were held and the subject matter of this Ordinance was approved by the Oconomowoc Town Board on February 6, 2012, and April 2, 2012, and

WHEREAS the matter was referred to and considered by the Waukesha County Park and Planning Commission which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 59.692 of the Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Waukesha County Shoreland and Floodland Protection Ordinance District Zoning Map for the Town of Oconomowoc, Waukesha County, Wisconsin, adopted by the Waukesha County Board of Supervisors on June 23, 1970, is hereby amended to conditionally rezone from the A-P Agricultural Land Preservation District to the P-I Public and Institutional and A-1 Agricultural Districts, (conservancy lands to remain unchanged), certain lands located in part of the SW ¼ and SE ¼ of Section 14, T8N, R17E, Town of Oconomowoc, and more specifically described in the “Staff Report and Recommendation” and map on file in the office of the Waukesha County Department of Parks and Land Use, and made a part of this Ordinance by reference ZT-1724, is hereby approved, with the following conditions:

1. The respite facility must be in operation within three years from the date of the County Board’s approval of the rezoning. If the facility is not in operation three years from the date of the County Board’s adoption of the rezoning ordinance, the zoning of the east parcel shall revert back to A-P Agricultural Land Preservation District.
2. All lands zoned C-1 Conservancy District will remain zoned C-1 Conservancy District.
3. A Certified Survey Map shall be prepared by a Registered Land Surveyor in the State of Wisconsin and reviewed and approved by the Town Plan Commission, Town Board and the Waukesha County Planning and Zoning Division Staff prior to the issuance of any Zoning or Building Permits.
4. A Landscape Plan shall be submitted for the east parcel to the Town Planner and Town Plan Commission for review and approval prior to the issuance of any permits.
5. No more than 30% of the subject east parcel shall be improved with impervious surfaces inclusive of rooftops and paved or gravel surface parking or service areas.

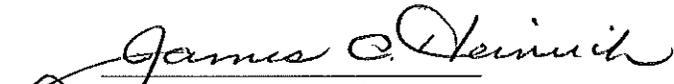
BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with the Town of Oconomowoc Clerk.

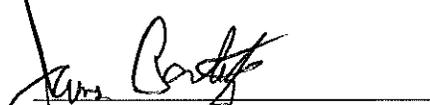
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

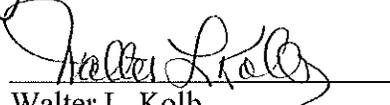
BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.

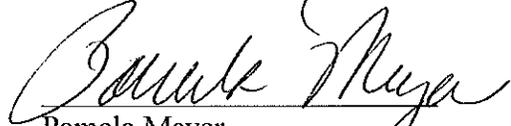
AMEND THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE OF THE TOWN OF OCONOMOWOC BY CONDITIONALLY REZONING CERTAIN LANDS LOCATED IN PART OF THE SW ¼ AND SE ¼ OF SECTION 14, T8N, R17E, TOWN OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN, FROM THE A-P AGRICULTURAL LAND PRESERVATION DISTRICT TO THE P-I PUBLIC AND INSTITUTIONAL AND A-1 AGRICULTURAL DISTRICTS (SZ-1724)

Presented by:
Land Use, Parks, and Environment Committee

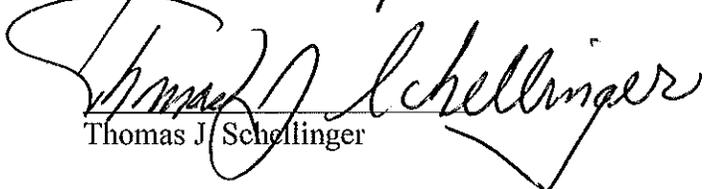

James A. Heinrich, Chair

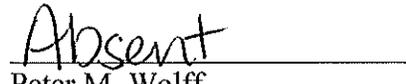

Jim Batzko


Walter L. Kolb

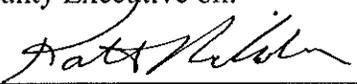

Pamela Meyer


Fritz Ruf


Thomas J. Schellinger


Peter M. Wolff

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: May 25 - 2012, 
Kathy Nickolaus, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X
Vetoed: _____
Date: 5-29-12, 
Daniel P. Vrakas, County Executive

COMMISSION ACTION

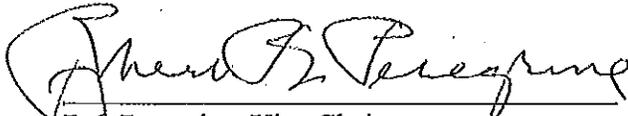
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance hereby recommends approval of SZ-1724 (Schowalter Revocable Trust) in accordance with the attached "Staff Report and Recommendation."

PARK AND PLANNING COMMISSION

April 19, 2012

(Absent)

Gary Goodchild, Chairperson



Bob Peregrine, Vice Chairperson



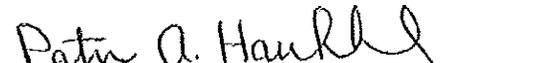
William Mitchell

Abstained

Jim Siepmann



Walter Kolb



Pat Haukohl



Fritz Ruf

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION
ZONING MAP AMENDMENT

FILE NOS: SZ-1724

TAX KEY NUMBER: OCOT 0487.998.002

DATE: April 19, 2012

**NAME OF PETITIONER/
OWNER:** Robert and Diana Schowalter
Schowalter Revocable Trust
N72 W35498 Mapleton Lake Drive
Oconomowoc, WI 53066

Co-applicant (West Parcel)-
Jeffrey Herrmann, Administrator
Town of Oconomowoc
W359 N6812 Brown Street
Oconomowoc, WI 53066

LOCATION OF PROPERTY:

Part of Lot 1, Certified Survey Map No. 6947, part of the SE ¼ and SW ¼ of Section 14, T8N, R17E, Town of Oconomowoc. More specifically, the property is located on the east side of Brown Street, (C.T.H. "P"), directly across from the intersection of Ashippun Shores Drive and Brown Street and borders Angels Grace Hospice at W359 N7430 Brown Street. The subject lands consist of approximately 53 acres.

PRESENT ZONING:

A-P Agricultural Land Preservation District.

PRESENT LAND USE:

Agricultural.

PROPOSED ZONING:

P-I Public and Institutional District and A-1 Agricultural District.

PROPOSED LAND USE:

Respite facility for children and youth with severe disabilities with the westerly 4.8 acres to remain in agricultural use.

PUBLIC HEARING DATE:

October 17, 2011 and March 19, 2012.

167-0-003

4.

PUBLIC REACTION:

At the October 17, 2011 public hearing, four nearby property owners raised questions about traffic, commercial uses, pond water tests, and questions were raised as to what type of children would be staying at the facility. One of the speakers asked that the project details be worked out with neighbors prior to the project moving further ahead. The petitioner did hold a follow up meeting with neighbors to discuss concerns.

At the March 19, 2012 public hearing regarding the proposal to amend the zoning of the westerly subject acreage to A-1 Agricultural District, three individuals asked questions about traffic and agricultural land use changes in the area and expressed concern about future additional development.

TOWN OF OCONOMOWOC PLAN COMMISSION ACTION:

The Town of Oconomowoc Plan Commission voted to approve the rezoning request relative to the east part of the property at their meeting of December 5, 2011 and approved the request relative to the west proposed parcel at their meeting of March 19, 2012.

TOWN BOARD OF OCONOMOWOC ACTION:

The Town of Oconomowoc Board of Supervisors voted to approve the rezoning requests, subject to conditions, at their meetings of February 6, 2012 and April 2, 2012.

CONFORMANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY AND THE TOWN OF OCONOMOWOC LAND USE PLAN:

The proposal to rezone the property to the P-I and A-1 Districts complies with both plans. The County Plan identifies the lands within the P-I category, while the Town Plan identifies all but the west five acres within the P-I District. The Town Plan identifies the west five acres in a 35 acre Agricultural category. The overall density of the site will continue to meet the 35 acre criteria, while the A-1 designation will more accurately reflect the current agricultural use of that portion of the site.

OTHER CONSIDERATIONS:

Bob Schowalter, the owner of the subject property filed a rezoning request in September 2011 to rezone approximately 53 acres of land to the east of C.T.H. "P" and adjacent to the Angel's Grace Hospice from the A-P Agricultural Land Preservation District to the P-I Public and Institutional District. Mr. Schowalter intends to donate the easterly 47 acres (east parcel) to Zachariah's Acres. Zachariah's Acres is proposing to provide a respite facility for children and youth with severe disabilities on the 47 acres. The westerly proposed 5 acre parcel (west parcel) containing frontage on C.T.H. "P" was proposed as a future church site that would have potentially served as an incubator facility for new congregations (See Exhibit "A"). The church facility had been envisioned to possibly support both the adjacent Angel's Grace Hospice and the proposed respite facility. The Town approved the request for the rezoning of the east parcel that would accommodate the respite facility but did not wish to rezone the west parcel out of the A-P District. The Planning and Zoning Division Staff advised the Town that the 5 acre parcel could not remain zoned A-P, because the parcel would be less than 35 acres, which is the district minimum. The Town elected to instead become a co-petitioner and filed a second rezoning application to amend the zoning for the west parcel to the A-1 Agricultural District.

The Planning and Zoning Division Staff does not understand the Town's opposition to a potential church site, given that the site is quite small and borders the hospice facility and C.T.H. "P". However, the petitioner has agreed to the change to the A-1 District, as the respite facility site is the higher priority at the present time. It should be noted that churches can be considered as Conditional Uses within the A-1 District, so the owner could at some point still petition the Town and County for such a use, or he has the option to petition for rezoning again in the future. The proposal to rezone the acreage to the A-1 District is consistent with the County Development Plan recommendations to zone lands as used, as the site is anticipated to stay in agricultural production for the time being.

It should be noted that the subject lands were not mapped as a Farmland Preservation Area on the recently adopted County Farmland Preservation Plan. The Town expressed support for the county's designation of Governmental and Institutional rather than Agricultural Preservation, acknowledging support for a possible future respite facility on these lands. The state's farmland preservation law also specifically allows for institutional facilities on lands that are designated for farmland preservation.

The respite facility would provide a facility where those with disabilities could experience a vacation or enjoy an outdoor experience that they might not otherwise have access to due to the lack of physical accommodations and special care facilities. The petitioners note that the facility would provide a break for both the children with disabilities and for their families who rarely experience a break from constant care giving responsibilities. The long term vision is for a facility that could accommodate overnight stays, with accommodations for possibly approximately 15 individuals. Other contemplated improvements include a pavilion, ADA accessible walking paths, an agricultural education/crop area, and possible guest quarters for the families of children staying at the facility (See concept site plan attached as Exhibit "B") The petitioners note that the site provides unique opportunities for nature based and rural experiences because of the ponds, wetlands, trees, wildlife and agricultural elements of the site. Site Plan approval would be required by both the Town and County where site details would be considered in greater detail. The proposal also requires a Certified Survey Map (CSM), as multiple new parcels would be created from a larger approximately 91 acre parcel.

The Town initially approved the rezoning of the respite facility site with a condition that impervious surface be limited to 10% of the site. It should be noted that the P-I District limits impervious surface to 60% of the parcel area, so the condition was significantly more restrictive than the effective zoning ordinance. The petitioner asked the Town to reconsider this decision, which they did at a subsequent meeting. The Town reconsidered and approved the rezoning with a maximum of 30% impervious surface. The Planning and Zoning Division Staff questions the merit of imposing a greater impervious surface limitation than the zoning ordinance requires. Most County zoning districts currently have no impervious surface limitations, and it seems contradictory to the ordinance to increase the impervious surface limitation for one specific project within a district that has a stated limit. The Planning and Zoning Division Staff believes that the Town is perhaps trying to limit the impervious surface because the property was formerly in a farmland preservation area and is in the part of the town where farmland preservation is the predominant planned land use. The petitioner has indicated that they believe that 30% will accommodate their long term build out and therefore they no longer object to the condition.

The boundaries of wetlands and an Isolated Natural Resource Area on the site have been field located by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) and have been depicted on the related CSM for the site. The Wisconsin Department of Natural Resources (WDNR) has also located the Ordinary High Water Mark of the public ponds on the site.

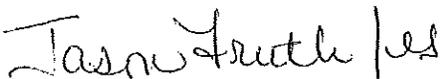
STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that the request to rezone the property from the A-P Agricultural Land Preservation District to the P-I Public and Institutional District and A-1 Agricultural District be approved subject to the following conditions, which are inclusive of the Town’s conditions.

1. The respite facility must be in operation within three years from the date of the County Board’s approval of the rezoning. If the facility is not in operation three years from the date of the County Board’s adoption of the rezoning ordinance, the zoning of the east parcel shall revert back to A-P Agricultural Land Preservation District.
2. All lands zoned C-1 Conservancy District will remain zoned C-1 Conservancy District.
3. A Certified Survey Map shall be prepared by a Registered Land Surveyor in the State of Wisconsin and reviewed and approved by the Town Plan Commission, Town Board and the Waukesha County Planning and Zoning Division Staff prior to the issuance of any Zoning or Building Permits.
4. A Landscape Plan shall be submitted for the east parcel to the Town Planner and Town Plan Commission for review and approval prior to the issuance of any permits.
5. No more than 30% of the subject east parcel shall be improved with impervious surfaces inclusive of rooftops and paved or gravel surface parking or service areas.

As conditioned, the proposed rezoning is consistent with the recently amended County Development Plan. The proposed respite facility will provide a valuable option for those with disabilities and their families to experience a vacation, break or outdoor activity that they might not otherwise have access to. This rezoning will accommodate a project can raise the quality of life for the larger community by filling a service gap that few, if any, communities can currently offer. The proposed land use will be complementary to the surrounding rural/semi-rural area.

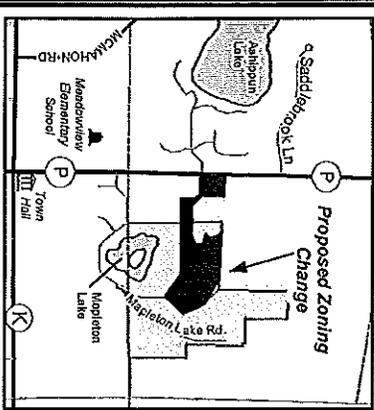
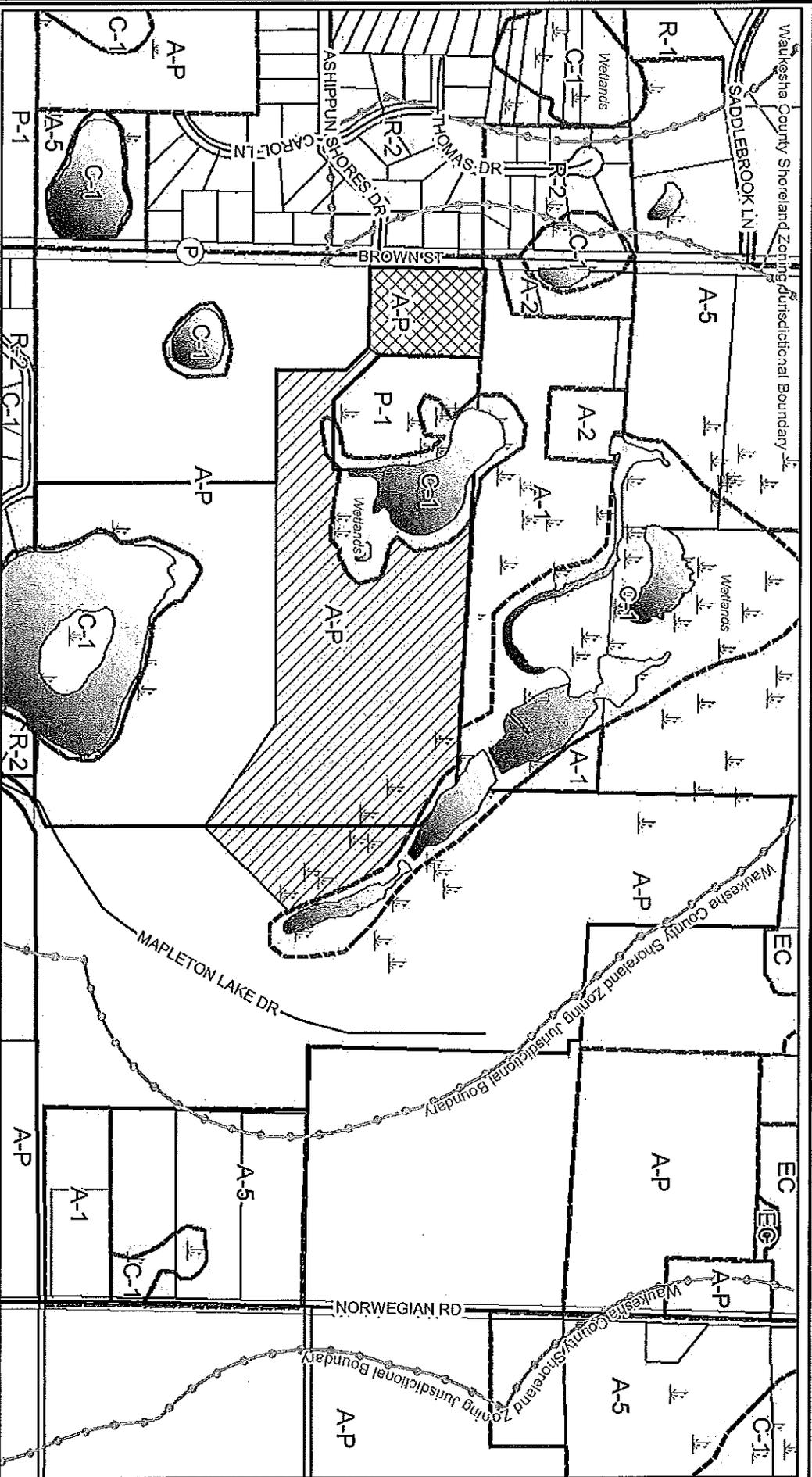
Respectfully submitted,



Jason Fruth
Planning and Zoning Manager

JF:kb

Attachments: Town Resolutions, Map, Exhibits “A” and “B”



ZONING MAP AMENDMENT

PART OF THE SW & SE 1/4 OF SECTION 14

TOWN OF OCONOMOWOC



Prepared by the Waukesha County Department of Parks and Land Use

-  CONDITIONAL SHORELAND ZONING CHANGE FROM A-P AGRICULTURAL LAND PRESERVATION DISTRICT TO P-1 PUBLIC AND INSTITUTIONAL DISTRICT
-  CONDITIONAL SHORELAND ZONING CHANGE FROM A-P AGRICULTURAL LAND PRESERVATION DISTRICT TO A-1 AGRICULTURAL DISTRICT
-  C-1 CONSERVANCY DISTRICT TO REMAIN UNCHANGED

FILE.....SZ-1724

DATE.....04/19/12

AREA OF CHANGE.....52.43 ACRES

TAX KEY NUMBER.....OCOT 0487 998.002 & OCOT 0488.994

RESOLUTION NO. 2012-2

WHEREAS, an application was made by the Schowalter Revocable Trust to amend the Comprehensive Plan and map identified as part of Lot 1 of Certified Survey Map No. 6947 from prime agricultural to Institutional; and

WHEREAS, the Town of Oconomowoc Plan Commission by resolution recommended that the Town Board change the Land Use Plan as to part of Lot 1 of Certified Survey Map No. 6947 from prime agricultural to institutional; and

WHEREAS, the Town Board did by ordinance amend the Comprehensive Land Use Plan as to part of Lot 1 of Certified Survey Map No. 6947 from prime agricultural to institutional at a regularly scheduled Town Board meeting held on November 21, 2011; and

WHEREAS, the current zoning of said land is AP Agricultural Land Preservation and C-1 Conservancy; and

WHEREAS, the property owner has requested that the property be rezoned to P-1 Public and Institutional District (see Map A); and

WHEREAS, the petitioner proposes to develop a respite center for special needs children, adults and their families operated as a nonprofit charitable organization which will thereby directly improve quality of life; and

WHEREAS, the Town Planner and Town Plan Commission recommend to the Town Board that the requested rezoning be approved as follows:

- Approximately 48.26 acres of Lot 1 of Certified Survey Map No. 6947 and other unplatted lands located in part of the Southwest One-Quarter and Southeast One-Quarter of Section 14, be conditionally rezoned to P-I Public and Institutional District, with the use limited to a respite facility for special needs children, adults and their families. It is required that the respite facility be in operation within three years from the date of the County Board's approval of the conditional rezoning ordinance. If the facility is not in operation three years from the date of the County Board's adoption of the rezoning ordinance, the zoning shall revert back to A-P Agricultural Land Preservation District after following the ordinance provisions for rezoning.
- The west 4.8182 acres of Lot 1 of Certified Survey Map No. 6947 and other unplatted lands located in part of the Southwest One-Quarter and Southeast One-Quarter of Section 14, remains zoned A-P Agricultural Land Preservation District.

- All lands zoned C-1 Conservancy District in the afore-described property are to remain zoned C-1 Conservancy.
- A certified survey map prepared by a Registered Land Surveyor in the State of Wisconsin dividing the parcel as proposed shall be reviewed and approved by the Town Plan Commission and Town Board prior to the issuance of any building permits.
- A landscape plan shall be submitted to the Town Planner for review and Town Plan Commission for review and approval prior to the issuance of any permits.
- No more than 10% of the subject parcel shall be of impervious surfaces consisting of rooftops and paved or gravel surface parking or service areas.

WHEREAS, the request for rezoning of the west 4.8182 acres of Lot 1 to A-1 Agricultural District is due to the fact that by way of a certified survey map currently being under consideration, said parcel will be a parcel less than 35 acres in size, and accordingly A-P Agricultural Land Preservation District zoning requiring a 35-acre minimum lot size is no longer applicable to said parcel.

NOW THEREFORE, BE IT HEREBY RESOLVED that the Town Board of the Town of Oconomowoc approves the request of the Schowalter Revocable Trust to rezone Lot 1 of Certified Survey Map No. 6947 and other unplatted lands located in part of the Southwest One-Quarter and Southeast One-Quarter of Section 14, as follows:

- The approximate easterly 48.26 acres thereof from A-P Agricultural Land Preservation District to P-1 Public and Institutional District is conditionally rezoned to P-1 Public and Institutional District, with the use limited to a respite facility for special needs children, adults and their families. It is required that the respite facility be in operation within three years from the date of the County Board's approval of the conditional rezoning ordinance. If the facility is not in operation three years from the date of the County Board's adoption of the rezoning ordinance, the zoning shall revert back to A-P Agricultural Land Preservation District after following the ordinance provisions for rezoning.
- The west 4.8182 acres of Lot 1 of Certified Survey Map No. 6947 and other unplatted lands located in part of the Southwest One-Quarter and Southeast One-Quarter of Section 14, remains zoned A-P Agricultural Land Preservation District.
- All lands zoned C-1 Conservancy District in the afore-described property will remain zoned C-1 Conservancy.

RESOLUTION NO. 2012-7

WHEREAS, the Town of Oconomowoc and the Schowalter Revocable Trust petitioned to rezone property owned by the Schowalter Revocable Trust identified as Lot 1 of Certified Survey Map No. 6947 from A-P Agricultural Land Preservation District to A-1 Agricultural District; and

WHEREAS, the subject property had heretofore been part of a larger A-P Agricultural Land Preservation District, part of which has been rezoned to P-1 Public and Institutional District; and

WHEREAS, by way of land division and rezoning, the subject parcel has only 4.8182 acres of land which remains in the A-P Agricultural Land Preservation District, which district requires a 35-acre minimum parcel size; and

WHEREAS, rezoning to A-1 will not impact on the use of the subject property and will change the zoning designation to the more appropriate A-1 Agricultural District; and

WHEREAS, the Town of Oconomowoc Plan Commission, after a joint public hearing with Waukesha County held on March 19, 2012, recommended that the Town Board change the zoning designation as requested by the petitioners.

NOW THEREFORE, BE IT HEREBY RESOLVED that the Town Board of the Town of Oconomowoc approve the request of the Town of Oconomowoc and the Schowalter Revocable Trust to rezone Lot 1 of Certified Survey Map No. 6947 from A-P Agricultural Land Preservation District to A-1 Agricultural District.

BE IT FURTHER RESOLVED that the Town Board of the Town of Oconomowoc respectfully requests that the Waukesha County Board amend the Waukesha County zoning ordinance to conform to the above rezoning.

DATED: April 2, 2012

TOWN OF OCONOMOWOC

By: Robert C. Hultquist
Robert C. Hultquist, Chairman

ATTEST:

Jo Ann Lesser
Jo Ann Lesser, Clerk

EXHIBIT "A"

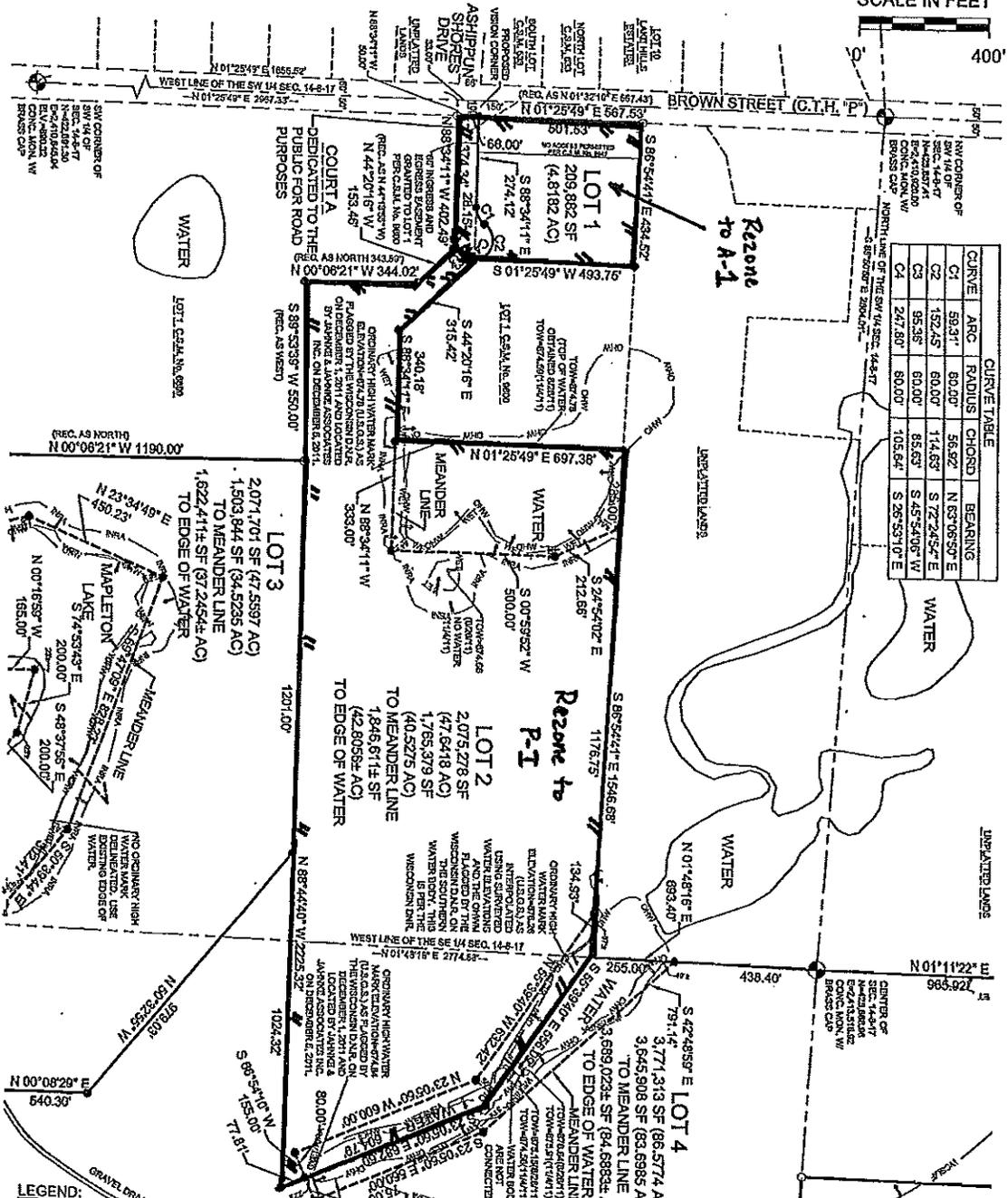
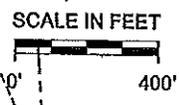
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FEB 22 2012
DEPT OF PARKS & LAND USE

PRELIMINARY

Sheet 2 of 19

CERTIFIED SURVEY MAP NO. _____

Being a redivision of Lot 1 of Certified Survey Map No. 6947 and Part of the SW 1/4 of the NE 1/4; NW 1/4, SW 1/4 and SE 1/4 of the SW 1/4 and the NW 1/4, SW 1/4, SE 1/4 and NE 1/4 of the SW 1/4 of Section 14 and the NW 1/4 of the NE 1/4 of Section 23, Town 8 North, Range 17 East, TOWN OF OCONOMOWOC, WAUKESHA COUNTY, WISCONSIN



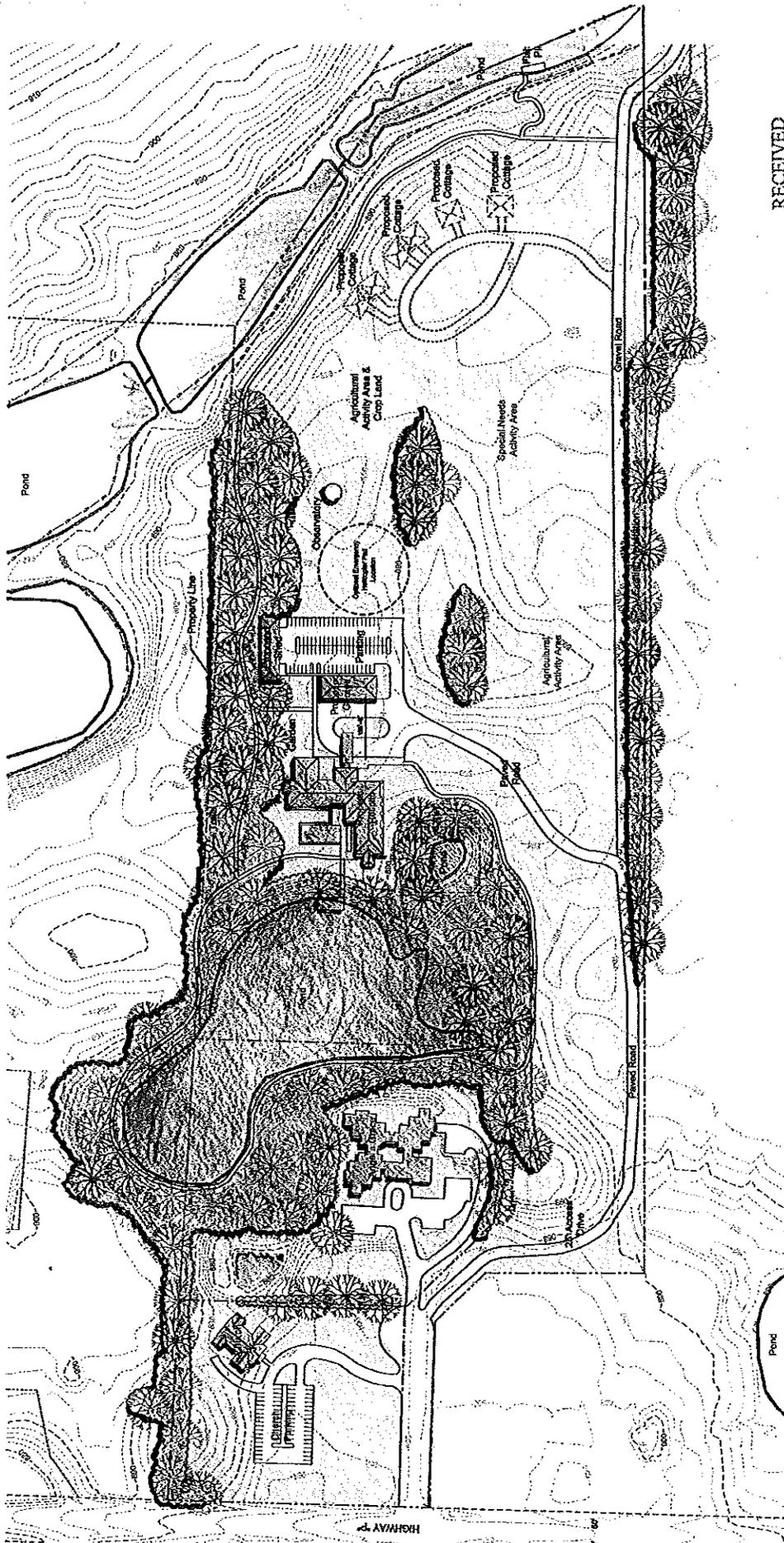
CURVE	ARC	RADIUS	CHORD	BEARINGS
C1	89.31'	80.00'	56.82'	N 83°06'59" E
C2	152.45'	80.00'	114.65'	S 72°24'57" E
C3	95.38'	80.00'	85.63'	S 45°54'05" W
C4	247.80'	80.00'	105.64'	S 28°53'10" E

- LEGEND:**
- IRON PIPE 18" X 1" DIA. 1.13+ LBS. PER LIN. FT. (PLACED)
 - IRON PIPE/ROD (FOUND)
 - ◆ CONC. MON. (FOUND)

OWNER: SCHOWALTER REVOCABLE TRUST
FILE NAME: S7836.DWG
P.S. OCONOMOWOC 478

167-0-003

13.



RECEIVED

SEP 20 2011

DEPT OF PARKS & LAND USE

EXHIBIT "B"

Zachariah's Acres
Land Use Plan

- Proposed New Building Statistics:
- Church - 7,300 SF
 - Respite - 22,000 SF
 - Garage - 6,000 SF
 - Shed - 5,100 SF
 - (2) Cottages - 4,400 SF
 - (2) Cottages - 2,200 SF

167-0-003

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-05/22/12

(ORD) NUMBER-1670003

1 C. SLATTERY.....AYE
 3 R. MORRIS.....AYE
 5 J. BRANDTJEN.....AYE
 7 J. GRANT.....AYE
 9 J. HEINRICH.....AYE
 11 F. RUF.....AYE
 13 P. DECKER.....AYE
 15 W. KOLB.....AYE
 17 D. PAULSON.....
 19 C. CUMMINGS.....NAY
 21 W. ZAEOROWSKI.....AYE
 23 K. HAMMITT.....AYE
 25 G. YERKE.....AYE

2 D. FALSTAD.....AYE
 4 J. BATZKO.....AYE
 6 J. JESKEWITZ.....AYE
 8 P. HAUKOHL.....AYE
 10 D. SWAN.....AYE
 12 P. WOLFF.....AYE
 14 P. MEYER.....AYE
 16 M. CROWLEY.....AYE
 18 L. NELSON.....AYE
 20 T. SCHELLINGER....AYE
 22 P. JASKE.....AYE
 24 D. DRAEGER.....AYE

TOTAL AYES-23

TOTAL NAYS-01

CARRIED X

DEFEATED _____

UNANIMOUS _____

TOTAL VOTES-24